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7  
8 In the United States District Court  
9 In and for the Northern District of California

10 DEBRA RODRIGUEZ, Civ. No. C 07-2985 EMC  
11 Plaintiff,  
12 -v- COMPLAINT FOR DAMAGES--  
VIOLATION OF TITLE VII  
13 (SEX DISCRIMINATION AND  
RETALIATION);  
14 HILTI, INC., VIOLATION OF THE ADEA  
(AGE DISCRIMINATION);  
15 Defendant. VIOLATION OF CALIFORNIA  
FAIR EMPLOYMENT AND  
16 HOUSING ACT (SEX  
DISCRIMINATION, AGE  
17 DISCRIMINATION, AND  
RETALIATION)

18 DEMAND FOR JURY TRIAL

19 Plaintiff Debra Rodriguez alleges as follows:

20 JURISDICTION, VENUE, AND PARTIES

21 1. This Court has original jurisdiction of the First  
22 Cause of Action herein, which is brought under Title VII of  
23 the 1964 Civil Rights Act, and specifically under 42 U.S.C.  
24 Sections 2000e-2, 2000E-3, and 2000e-5. The Court has  
25 original jurisdiction of this action under 28 U.S.C. Section  
26 1331 and 28 U.S.C. Section 1343.

27 2. This Court has original jurisdiction of the Second  
28 Cause of Action, which is brought for violation of the Age

1 Discrimination in Employment Act, 29 U.S.C. Sections 623 et  
2 seq. The Court has original jurisdiction of this cause of  
3 action under 29 U.S.C. Section 626 and 28 U.S.C. Section 1331.

4 3. This Court has supplemental, pendent, and ancillary  
5 jurisdiction over the Third Cause of Action (violation of the  
6 California Fair Employment and Housing Act provisions related  
7 to sex discrimination, age discrimination, and retaliation),  
8 which is a state law claim.

9 4. The unlawful actions of defendant Hilti,  
10 Inc., (hereinafter "Hilti" or "Hilti, Inc.") and its unlawful  
11 employment practices herein alleged were committed in the  
12 State of California and in the judicial district of this  
13 Court.

14 5. Plaintiff Debra Rodriguez currently resides in the  
15 County of Newton, State of Georgia. However, she was a  
16 resident of the judicial district of this Court in the State  
17 of California for almost all of the time period during which  
18 the wrongful conduct addressed herein occurred, and for which  
19 relief is being sought, and was employed by defendant Hilti,  
20 Inc. in the judicial district of this Court in the State of  
21 California for said same time period.

22 6. Defendant Hilti, Inc. is a corporation operating in  
23 the State of California and the judicial district of this  
24 Court.

25 FACTUAL ALLEGATIONS

26 7. Plaintiff refers to the allegations of paragraphs 1-  
27 6 of this complaint, and incorporates the same herein by this  
28 reference as though set forth in full.

1           8. Plaintiff was employed by defendant Hilti from in or  
2 about May, 1980 to in or about September, 2001. Plaintiff  
3 resigned from her employment with defendant Hilti at that  
4 time to help care for and spend time with her mother, who was  
5 dying of cancer. Plaintiff returned to employment with  
6 defendant Hilti in or about November, 2003. Plaintiff  
7 resigned from her employment with defendant Hilti on or about  
8 April 20, 2005.

9           9. Plaintiff was hired by defendant Hilti at their  
10 corporate office in Tulsa, Oklahoma in May 1980 as a Sales  
11 Planning Secretary to the Director of Sales Planning. In  
12 1981 plaintiff was promoted to a Sales Planning Analyst and  
13 worked in this position until 1988. This was an exempt  
14 salaried position. She worked with the Regional Managers  
15 realigning sales and territory geographical boundaries. If  
16 an area in the United States had economical changes, then she  
17 would work with the Regional Managers on closing territories  
18 or opening new territories in a growth area. Plaintiff  
19 traveled to the Division Offices (Dallas, San Francisco,  
20 Chicago, Atlanta and Stamford, CT) and worked with the Sales  
21 Planning Managers and Division Managers to develop sales  
22 forecasts by territory and regional level and create cost  
23 center budgets for field travel and business expenses. When  
24 new reporting systems were developed, plaintiff went out and  
25 presented them to the Division Offices. When new Sales  
26 Planning Managers were hired, plaintiff went to the Division  
27 office and trained them. Information from the Division  
28 office was sent to plaintiff to consolidate at the corporate

1 level. Plaintiff calculated Regional Manager Bonus payments  
2 on a quarterly basis. Plaintiff worked directly with the  
3 Regional Managers on sales promotions and prize payouts.

4 10. In 1988 plaintiff was transferred by Hilti to the  
5 Marketing Research Department as a Marketing Research  
6 Analyst. Plaintiff ran the department by herself with  
7 temporary college student help in summers. She conducted  
8 surveys with Hilti customers regarding customer satisfaction,  
9 new product ideas, and complaints. Plaintiff traveled to  
10 various parts of the United States and held focus groups on  
11 new product ideas that were being developed by Hilti.  
12 Plaintiff worked with F.W. Dodge and McGraw Hill to develop  
13 sales leads and construction activity information to send to  
14 the Regional Managers. Plaintiff did research on different  
15 market trends and presented this research and statistical  
16 market data to the executive management board on a quarterly  
17 basis. Once a year plaintiff attended the sales convention  
18 and held a meeting with all the regional managers and  
19 presented new construction lead software updates for Hilti's  
20 construction activity data base. Plaintiff kept abreast of  
21 current market trends and competitive information and  
22 distributed the information to the regional managers and  
23 upper management. In late 1993 and first quarter 1994  
24 plaintiff worked with each regional manager to realign the  
25 sales force in connection with developing strategic business  
26 markets for Hilti sales.

27 11. From in or about July 1994 to in or about September  
28 2001, plaintiff worked as a Mechanical/Electrical sales

1 representative for defendant Hilti in San Jose, California and  
2 in the East Bay (in California). In that position she  
3 consistently performed at a very high sales level and ranked  
4 in the top ten percent of the sales force. She consistently  
5 received very positive feedback and very good performance  
6 reviews. She was a President's Club winner three times, which  
7 was the award for the top 50 sales performers. She also  
8 received the Master's Club award, which was the next level of  
9 high achievement recognition.

10 12. Plaintiff resigned from her employment with  
11 defendant Hilti in or about September 2001 to help care for  
12 and spend time with her mother, who was dying of cancer. At  
13 that time she was told by Gil Morris, President, that she  
14 could come back any time she wanted.

15 13. In or about November 2003 plaintiff contacted Stan  
16 Gilson (District Sales Manager), stating that she wanted to  
17 return to work for defendant Hilti. Mr. Gilson had been one of  
18 plaintiff's Regional Managers during her eight years as a  
19 Mechanical/Electrical sales representative. She asked about a  
20 sales account manager position. Mr. Gilson told plaintiff that  
21 she had served her time as an account manager, that he had  
22 received headcount approval for a Senior Account Manager (SAM)  
23 several months before, that he needed plaintiff in that  
24 position because the Mechanical/Electrical sales team had lost  
25 a lot of the large accounts in the Bay Area while plaintiff  
26 was gone, and he needed that business back.

27 14. There were 13 approved SAM positions in the  
28 company, most of which had already been filled by successful

1 sales people, before plaintiff was hired into the SAM  
2 position. The Senior Account Manager position (SAM) was  
3 something like a key account manager. In the SAM position,  
4 the SAM was supposed to concentrate his or her efforts on 10  
5 large accounts to increase his or her sales to these accounts,  
6 and to also cover all the jobsites in his or her respective  
7 geographical area. Plaintiff started in her SAM position on or  
8 about November 3, 2003. Plaintiff is informed and believes  
9 there were two females in SAM positions, and eleven males.  
10 The Senior Account Manager position had a salary and a bonus  
11 plan that was based on the sales growth of the accounts.

12 15. Plaintiff's SAM position covered all the geography  
13 that the Bay Area Mechanical/Electrical team of four covered.  
14 Plaintiff was told by Stan Gilson "to get that business back".  
15 At the time of plaintiff's interview, Mr. Gilson told  
16 plaintiff that it was very important for her to be mobile,  
17 because the Senior Account Manager position would be a  
18 stepping stone to a Regional Manager position if she were  
19 successful.

20 16. On or about March 9, 2004, at a Regional Sales  
21 Meeting, plaintiff had lunch with Gil Morris, President. He  
22 encouraged plaintiff to start thinking about where "she  
23 wanted to get back to" and what other jobs she would like to  
24 do. He also stated that because of VISION 2008, the plan to  
25 double sales worldwide by 2008, Hilti needed people like her.  
26 He said he was very proud of plaintiff's sales results and  
27 was very glad to have her back. Mr. Morris also told  
28 plaintiff she needed to increase her sales base by \$200,000

1 and asked her if she could do it. Plaintiff said yes.  
2 (Plaintiff reached that goal by on or about November 15,  
3 2005.)

4 17. On or about March 12, 2004, Stefan Lang,  
5 plaintiff's immediate supervisor and Regional Sales Manager,  
6 called her and asked her how mobile she was. Plaintiff told  
7 him that her husband and she had discussed their mobility  
8 after her recent meeting with Mr. Morris, and they were  
9 willing to move from the Bay Area. Mr. Lang told plaintiff  
10 that he was putting her in for promotion status, and that he  
11 needed to meet plaintiff for lunch to discuss promotional  
12 opportunities.

13 18. On or about April 4, 2004, Mr. Lang spent the  
14 morning with plaintiff, meeting her customers. They also went  
15 to lunch together. Mr. Lang told plaintiff that the lunch was  
16 about her, that it had been decided that she could go  
17 anywhere she wanted to go and do any position she wanted.  
18 Plaintiff asked if he was going to give her any choices. He  
19 said no - this is how it works. Plaintiff was to let the  
20 company know where she wanted to go and the company would get  
21 her there. Plaintiff and Mr. Lang spent hours discussing her  
22 qualifications and her 21 years of experience with the  
23 company. Mr. Lang agreed that plaintiff could go anywhere  
24 because of the combination of her excellent sales results and  
25 her 14 years of corporate sales planning and marketing  
26 research experience. Mr. Lang agreed that plaintiff's  
27 situation was very unique. Most people would start in the  
28 field and then go to corporate, whereas plaintiff had done

1 the opposite.

2 19. After discussing what positions were available, Mr.  
3 Lang agreed that plaintiff would make a good Regional  
4 Manager. Mr. Lang said that Charlie Martorello, Vice  
5 President, Western Division would not put plaintiff's name in  
6 for promotion at that time (April 2004), but would do so in  
7 the fall of 2004. Plaintiff and Mr. Lang both agreed that  
8 plaintiff would stay in her present job through December 2004  
9 and get whatever training she would need during that time.

10 20. Plaintiff was actually relieved because she was  
11 enjoying the SAM position and her husband had just started a  
12 new job in March 2004 and wanted to wait so he could also  
13 transfer with his company.

14 21. Mr. Lang also said that he would support plaintiff  
15 in whatever she wanted to do. They also talked about where  
16 plaintiff wanted to go. Plaintiff said that she would like to  
17 check out the Charlotte North Carolina area. Mr. Lang stated  
18 that Jim Tate, was the Regional Manager out there and that by  
19 the time plaintiff was ready to move, Mr. Tate should be  
20 ready to be promoted. Mr. Lang said plaintiff could take any  
21 classes during the year that she wanted. Mr. Lang did not  
22 mention anything about plaintiff not being qualified for the  
23 position or of Mr. Martorello having any "misgivings about  
24 her skills to manage 10 account managers". Plaintiff saw Mr.  
25 Martorello at the Oakland, California store several times and  
26 at meetings over the next six months and he never brought up  
27 anything about her allegedly being "impatient with sales  
28 representatives" or about having any "reservations" about her



1 in a Regional Manager position.

2 22. Plaintiff and her husband spent the next few months  
3 researching the Charlotte area. Plaintiff told Mr. Lang that  
4 they had made plans to visit Charlotte in June 2004 to look  
5 around. He encouraged plaintiff to go, and talked constantly  
6 about plaintiff getting promoted. He even went as far to joke  
7 about him taking plaintiff's job, because of the bonuses she  
8 was making on the high growth of her accounts.

9 23. In or about April 2004 plaintiff attended a Senior  
10 Account Manager meeting in Tulsa, Oklahoma, along with the  
11 other 12 Senior Account Managers. During this time plaintiff  
12 talked with Marcus Oden, Director of Human Resources. She  
13 told Mr. Oden about Mr. Lang assuring and representing to her  
14 she would be promoted to a Regional Manager at the end of  
15 2004. Plaintiff and Mr. Oden discussed at that time the  
16 training involved for the Regional Manager position. Mr. Oden  
17 said that Mr. Lang would have to coordinate that for  
18 plaintiff after the end of the year, because most of the  
19 training would come after she was promoted. Mr. Oden did not  
20 mention anything about plaintiff not being qualified to be a  
21 Regional Manager during this discussion nor did he mention  
22 anything about her performance or work, past or current, that  
23 would keep her from becoming a Regional Manager.

24 24. Plaintiff and her family went to Charlotte on or  
25 about June 12, 2004, and spent a week looking around.

26 25. Plaintiff met with Mr. Lang or about July 6, 2004,  
27 and told him they had really liked the Charlotte area.  
28 Plaintiff and Mr. Lang discussed the trip and plaintiff's

1 promotion. At that time plaintiff specifically asked Mr. Lang  
2 whose idea it was to promote her. He said it was Stan Gilson  
3 and himself. Mr. Lang told plaintiff they both thought that  
4 she was a talented and an outstanding performer and that  
5 "Hilti takes care of and rewards their valuable employees".  
6 He said to sit back and wait to see what Jim Tate's (Regional  
7 Manager in Charlotte) plans were.

8       26. In or about July 2004 plaintiff's husband declined  
9 an offer of a promotion within the company he worked for. He  
10 and plaintiff believed they would soon be moving when she  
11 received a promotion to the position of Regional Manager.  
12 They believed it would have been unfair to her husband's  
13 company for her husband to take a promotion and then leave.

14       27. In or about August 2004, plaintiff was told by Mr.  
15 Lang that he, Mr. Lang, had told Mr. Martorello that  
16 plaintiff was interested in the Charlotte Regional Manager  
17 position. Soon thereafter, plaintiff received an email from  
18 Mr. Lang stating that Mr. Martorello had called Gil Morris,  
19 President of Hilti, and let him know that plaintiff was  
20 interested in the position and for plaintiff to wait until  
21 she heard something from Mr. Martorello or Mr. Morris.

22       28. A few weeks later plaintiff was told by Mr. Lang  
23 that it had been determined that Jim Tate would not be  
24 leaving the Charlotte position because of personal problems.  
25 Mr. Lang told plaintiff that they should start looking  
26 someplace else.

27       29. In or about August 2004 Mr. Lang called plaintiff  
28 and said that Charlie Martorello needed to go on sales calls

1 with her and would discuss her promotion. However, Mr.  
2 Martorello did not put plaintiff on his schedule until on or  
3 about October 13, 2004.

4 30. Mr. Martorello had been the Vice-President of Sales  
5 for the Western Division for 17 years. Plaintiff is informed  
6 and believes that during his time as the Vice-President of  
7 Sales, Western Division, Mr. Martorello had only promoted one  
8 woman salesperson into a Regional Manager position and that  
9 was back in or about 1995. Plaintiff is further informed and  
10 believes that the aforesaid female was a personal friend of  
11 the wife of Mr. Martorello. Plaintiff is informed and  
12 believes that in 2004, there were no female Regional Managers  
13 in Mr. Martorello's division, that there were no female  
14 Regional Managers in Training in Mr. Martorello's division,  
15 and that no females had been promoted or interviewed for  
16 those management positions in the Western Division under  
17 Charlie Martorello for in or about over 9 years.

18 31. The meeting of October 13, 2004, was the first time  
19 Mr. Martorello had ever ridden with plaintiff in the eight  
20 plus years she had worked under him. During the five hour  
21 ride-a-long with Mr. Martorello on October 13, 2004,  
22 plaintiff explained to him what Mr. Lang had said regarding  
23 promotion opportunities for her to be a Regional Manager. She  
24 told Mr. Martorello that they had decided on the North  
25 Carolina area and that if things had changed she needed to  
26 know.

27 32. Mr. Martorello told plaintiff that he could not see  
28 her as a Regional Manager because according to him she had no

1 patience. Plaintiff asked him what he meant and if there was  
2 a specific incident or something else he was referring to.  
3 Mr. Martorello said no.

4 33. In plaintiff's approximately eight years as a sales  
5 representative she was often called upon for help by other  
6 sales people with problem accounts. Other sales people  
7 frequently rode with her to learn selling skills. She was  
8 frequently asked to have corporate managers and executives  
9 ride with her. Plaintiff was very good friends with most of  
10 the other sales people in the Bay Area, especially the  
11 successful ones like herself. From 1994 to 2001, plaintiff  
12 received no written or verbal documentation regarding her  
13 being openly critical of other co-workers or of other sales  
14 people complaining about her. In none of her annual  
15 Performance Management Process (PMP) reviews was she ever  
16 told she had poor interpersonal skills. In fact, her 1999  
17 sales performance review states that she was a team leader  
18 and group player.

19 34. Mr. Martorello told plaintiff that he could see her  
20 as a Firestop Specialist or a Diamond Specialist. These  
21 positions would not be a promotion for plaintiff but a  
22 lateral transfer. Plaintiff said she was not interested in  
23 these types of positions because they were still sales  
24 positions, that after eight years of being a very successful  
25 salesperson, she had learned everything she could possibly  
26 learn from selling, achieved every award that she could and  
27 that there were no challenges left in the position. Plaintiff  
28 also stated that at her age it was time for her to do

1 something else with the company instead of driving around in  
2 a jeep all day carrying tools.

3 35. Mr. Martorello said he thought plaintiff should be a  
4 Regional Manager in Training (RMIT) first. Plaintiff told Mr.  
5 Martorello that she and Mr. Lang had decided that with her  
6 extensive sales planning and marketing corporate background,  
7 her personal business employment experience and her excellent  
8 sales skills, that she should be able to go directly into a  
9 Regional Manager position.

10 36. Mr. Martorello offered plaintiff an Account Manager  
11 position in Hawaii. Plaintiff told him she was not interested  
12 because it was a demotion and still a sales position. He  
13 stated that plaintiff could go back to corporate and have a  
14 pick of any position she wanted there. Plaintiff told him she  
15 liked the sales end of the company and was not interested in  
16 moving back to Tulsa, Oklahoma.

17 37. Finally after going back and forth for about two  
18 hours, Mr. Martorello agreed to bring plaintiff's name up to  
19 the promotion board that was meeting the next week in Tulsa  
20 to talk about promotable candidates. He told plaintiff that  
21 Vince Caggiano, Vice-President of Hilti's Industrial  
22 Division, had a Regional Manager position available in the  
23 North Carolina/South Carolina area and that he (Mr.  
24 Martorello) would call Mr. Caggiano and talk to him and that  
25 he (Mr. Martorello) would bring up her name during the  
26 promotion board meeting and see what came up. He told  
27 plaintiff he would call her when he came back.

28 38. Plaintiff told Mr. Martorello that she was very

1 interested in the Regional Manager position in the North  
2 Carolina/South Carolina area which he was speaking to her  
3 about, and that she was willing to make a 10 year commitment  
4 to Hilti if she moved, and that she planned on retiring when  
5 she was 59 1/2 years old.

6 39. Mr. Martorello brought up an issue with plaintiff  
7 about her alleged lack of patience one time in that 5-hour  
8 day, but never elaborated on what he was referring to. This  
9 alleged issue had never come up before with any of  
10 plaintiff's managers, past or present.

11 40. During this same day, Mr. Martorello also told  
12 plaintiff he had put her name in to Marcus Oden in Tulsa for  
13 a Sales Recruiter position along with three other candidates.  
14 He said they needed someone in that position that was very  
15 professional, that would represent the company well, thought  
16 a lot about the company, and would recruit the right type of  
17 people from colleges for open sales positions. He said that  
18 he thought the position would be perfect for the plaintiff.  
19 Plaintiff and Martorello talked about the position being in  
20 Tulsa, and he said he thought that due to the volume of  
21 hiring for Vision 2008, that there eventually would be an  
22 East and West recruiter and that she could probably live  
23 wherever she wanted.

24 41. Plaintiff never heard anything back from Marcus Oden  
25 in Human Resources regarding this Sales Recruiter position or  
26 an opportunity to interview for the Sales Recruiter position.

27 42. Plaintiff is informed and believes that over the  
28 next few weeks Mr. Lang had several conversations with Mr.

1 Martorello in which Mr. Martorello brought up alleged things  
2 about plaintiff from the past, and in response Mr. Lang told  
3 Mr. Martorello that he did not see plaintiff the way Mr.  
4 Martorello saw plaintiff. Plaintiff asked Mr. Lang what these  
5 past issues were, but Mr. Lang indicated that he was not  
6 given any specific information.

7 43. After two weeks of waiting for a response from Mr.  
8 Martorello, plaintiff e-mailed him on October 29, 2004, and  
9 received a reply to call him on the following Monday and he  
10 would talk about it. When they talked on November 3, 2004,  
11 Mr. Martorello told plaintiff that "everyone" at the meeting  
12 was surprised that she would want to be a Regional Manager.  
13 Mr. Martorello said he thought that plaintiff should first go  
14 into a Regional Manager in Training (RMIT) program. He said  
15 that Gil Morris, President, suggested that plaintiff be an  
16 RMIT first before becoming a Regional Manager. He stated that  
17 plaintiff would get the necessary experience with account  
18 manager interactions through the RMIT program. Plaintiff told  
19 him that she felt she was beyond needing that, but if that  
20 was required she would do it. Plaintiff voiced her concerns  
21 about having to move twice, because of her husband's career  
22 and her 10 year old's schooling. He said after serving her  
23 time as an RMIT that she could pick three places, and Hilti  
24 would commit to getting her to one of them. Mr. Martorello  
25 offered plaintiff an interview for an RMIT position in  
26 Phoenix the following Tuesday, November 10, 2004.

27 44. Plaintiff asked Mr. Martorello if he had talked to  
28 Vince Caggiano regarding the Regional Manager position in the

1 North Carolina/South Carolina area which Mr. Martorello had  
2 told her about. Mr. Martorello said that the Regional Manager  
3 position in the North Carolina/South Carolina area he had  
4 spoken to her about had been filled by one of the male  
5 candidates he, Mr. Martorello, had interviewed the prior week  
6 in Portland.

7 45. Plaintiff prepared a promotion presentation for the  
8 interview for the Regional Manager in Training position for  
9 Phoenix and sent a copy to Stefan Lang. The presentation  
10 included her corporate background, her experience running two  
11 businesses, her sales background, and a plan to reach VISION  
12 2008 goals. Stefan Lang commented that he thought it was a  
13 great presentation and that she had done a good job preparing  
14 it, and he gave her some Vision 2008 goals to add to it.

15 46. Plaintiff went to the interview for the Regional  
16 Manager in Training position for Phoenix on or about November  
17 9, 2004. The interview took place in Charlie Martorello's  
18 office, which was located in Walnut Creek, California case.  
19 Prior to the interview with plaintiff, Charlie Martorello and  
20 Casey Blim (the Regional Manager in Phoenix) were  
21 interviewing the only other candidate plaintiff is aware of  
22 who was up for the position of RMIT in Phoenix, whose name  
23 was Chris Tindiller. Plaintiff heard the entire interview  
24 with Chris Tindiller because the door to the office was open,  
25 and plaintiff was right outside the door in the hallway  
26 (which was where she had been told to wait). When it was  
27 time for plaintiff's interview, plaintiff did a slide show  
28 Powerpoint presentation regarding her nine years of sales



1 planning experience in corporate which consisted of working  
2 with Regional Managers on sales planning, forecasting,  
3 territory realignments, and other field related projects. She  
4 also included in the Powerpoint slide show presentation a  
5 presentation as to her work as a marketing research analyst  
6 for the company in which she, for six years, performed  
7 marketing research duties, during which time she worked on  
8 customer and field sales surveys, provided sales leads to the  
9 Regional Managers, and did focus groups with Hilti customers  
10 on new product ideas. In her marketing research analyst  
11 position, plaintiff had worked very closely with the  
12 President and Vice Presidents of Marketing. Also included in  
13 plaintiff's Powerpoint presentation was a presentation on the  
14 two businesses plaintiff had owned. One of these businesses  
15 was an arts and crafts business which she had worked on for  
16 seven years on weekends. The second of these businesses was  
17 a fire sprinkler company which she and her husband had owned  
18 from 2000 to 2003, and of which she was Vice President. In  
19 this fire sprinkler company business, there were  
20 approximately 32 employees who plaintiff had helped supervise  
21 in the field and office. She had also kept up relations with  
22 the fire sprinkler company's customers and the scheduled  
23 work. Plaintiff's Powerpoint presentation also included her  
24 sales success from her two sales positions with Hilti and a  
25 summary of the areas she would focus on to help accomplish  
26 VISION 2008. Plaintiff did not focus solely on her sales  
27 skills as her only success, but showed all of her various  
28 skills, including managerial skill, teamwork skills,

1 marketing research skills, planning skills, leadership  
2 skills, etc.

3 47. The only other person plaintiff is aware of who  
4 interviewed for the Phoenix Regional Manager in Training  
5 position for Phoenix was Chris Tindiller. As indicated  
6 previously, above, plaintiff heard this interview, as she was  
7 outside in the hallway with the door to the office open.  
8 Tindiller was a young male college graduate. Plaintiff is  
9 informed and believes that he had been with Hilti for less  
10 than a year. Plaintiff is not aware of Tindiller presenting  
11 a Powerpoint presentation, like plaintiff did.

12 48. Nothing was discussed with plaintiff during the  
13 interview regarding her allegedly not being qualified for the  
14 Regional Manager in Training position for Phoenix.

15 49. At the interview for the Regional Manager in  
16 Training position for Phoenix, plaintiff never really got to  
17 talk about what Casey Blim was looking for, because she spent  
18 the time trying to defend herself from Mr. Martorello's  
19 allegations of a lack of patience on her part. Plaintiff once  
20 again asked Mr. Martorello to give her specifics on this  
21 issue, but he never gave her any. Plaintiff finally was able  
22 to ask Mr. Blim a few questions about the RMIT position, but  
23 that was about the extent of the interview.

24 50. During this interview for the RMIT position for  
25 Phoenix, plaintiff told Mr. Martorello that she needed his  
26 support with regard to her promotion to the RMIT position and  
27 felt like she was not getting his support. Mr. Martorello  
28 said he was being supportive. Plaintiff asked Mr. Martorello

1 why there were no female Regional Managers in the Western  
2 Division. She pointed out to Mr. Martorello that he had no  
3 female Regional Managers, nor had there been any for over  
4 five years. In response Mr. Martorello mentioned a female  
5 named Betsy Starr, who had been a Regional Manager under Mr.  
6 Martorello. Plaintiff replied that Ms. Starr had been  
7 promoted back in 1995 and had been gone for five years, and  
8 no women had been promoted since that time.

9 51. During this interview it became clear to plaintiff  
10 that it had already been decided that Mr. Tindiller was going  
11 to be put into the Phoenix RMIT position. This is indeed  
12 what happened.

13 52. During the interview for the Phoenix Regional  
14 Manager in Training position, Mr. Martorello brought up an  
15 RMIT position which had been approved for the Bay Area under  
16 Bill Holden, Construction Regional Manager. Mr. Martorello  
17 said he wanted plaintiff to talk to Bill Holden the next day  
18 (which was under the construction division). He also  
19 suggested plaintiff talk to Vince Caggianno, the Vice-  
20 President of Industrial Sales, to see if he had any openings  
21 for Regional Managers.

22 53. That same evening plaintiff e-mailed Mr. Martorello  
23 a copy of her Powerpoint presentation (since she hadn't left  
24 him a copy that day). In her email she told Mr. Martorello  
25 that it was time he started concentrating on her performance,  
26 instead of "old history".

27 54. The next morning, on or about November 10, 2004,  
28 Stefan Lang e-mailed plaintiff a copy of an e-mail Mr.

1 Martorello had e-mailed out that same morning, which was  
2 entitled "Bay Area SAM - I'm sold!!" Mr. Martorello had sent  
3 out an e-mail praising plaintiff and her sales  
4 accomplishments as a SAM (Senior Account Manager), copied  
5 part of her presentation that included her year-to-date sales  
6 results which were 279% over the prior year, and sent it to  
7 all the Regional Managers in the company, as well as a copy  
8 to Gil Morris, the President.

9       55. That same day, on or about November 10, 2004,  
10 plaintiff emailed her Regional Manager in Training  
11 presentation which she had previously given to Mr.  
12 Martorello, to Vince Caggiano, and then she telephoned Mr.  
13 Caggiano. Mr. Caggiano told plaintiff that there were not  
14 too many people in the company with her background, that her  
15 sales results were outstanding, and that her managers must be  
16 very happy. Mr. Caggiano said that he would be out in the  
17 Bay area in January 2005 and would like to spend 4 or 5 hours  
18 with plaintiff to talk about what she wanted to do and where  
19 she was willing to go. Plaintiff mentioned the patience  
20 issue raised by Mr. Martorello. Mr. Caggiano agreed that  
21 everyone changes, that he had had the same issues over the  
22 years, and that he considered the past to be the past.

23       56. Plaintiff then called Stefan Lang and told him what  
24 Vince Caggiano had said. Mr. Lang told plaintiff not to put  
25 all her eggs in one basket and to talk to Bill Holden  
26 regarding the Bay Area Regional Manager in Training position.  
27 Plaintiff said she would like to interview for everything she  
28 could. Mr. Lang said he would call Bill Holden and arrange an

1 interview.

2       57. Mr. Lang asked plaintiff how the interview went  
3 with Mr. Martorello. Plaintiff explained that she didn't feel  
4 like she even got an interview - that she spent the whole  
5 hour defending herself and justifying why she wanted to be a  
6 Regional Manager. No questions were ever asked regarding the  
7 Regional Manager in Training position, or regarding the  
8 qualifications needed for it. Plaintiff said that Mr.  
9 Martorello had this negative attitude and said that he had  
10 told plaintiff there were five other people that felt the  
11 same way he did. Plaintiff also told Mr. Lang that Mr.  
12 Martorello brought her daughter up, and had asked her if she  
13 would move with plaintiff or stay behind. Plaintiff told Mr.  
14 Lang that she told Mr. Martorello that it was not his  
15 concern.

16       58. On or about November 10, 2004, plaintiff received a  
17 phone call from Casey Blim, the Regional Manager in Phoenix.  
18 He informed plaintiff that even though she was the most  
19 qualified candidate for this RMIT (Regional Manager in  
20 Training) position, it was given to Chris Tindiller. Mr. Blim  
21 told plaintiff it didn't really matter how Chris Tindiller  
22 performed because he was in a fast moving promotion program  
23 called the Thunderbirds.

24       59. Mr. Blim went on to tell plaintiff that someone in  
25 Tulsa was "out to get her". Plaintiff asked who? Mr. Blim  
26 said someone in Human Resources. Plaintiff said the only  
27 person she knew in Human Resources was Marcus Oden. Mr. Blim  
28 replied "Bingo".

1           60. On or about November 10, 2004, plaintiff went to  
2 Hilti's Oakland, California Center and spoke with Bill  
3 Holden. They had an informal interview which started with Mr.  
4 Holden asking plaintiff "How would you like to move to  
5 Sacramento - that is where my RMIT position will be".  
6 Plaintiff said that it was probably okay, but she would have  
7 to discuss it with her husband. Mr. Holden said he had not  
8 interviewed anyone, but he thought plaintiff would be perfect  
9 for the job and that they would work well together. He said  
10 he needed plaintiff to go right away, so if she didn't sell  
11 her house quickly, then she could commute.

12           61. Plaintiff told him that she and her husband had  
13 been working on their house for 8 months since this promotion  
14 process had started, and that considering the area she lived  
15 in, it should not be a problem to sell her house. Mr. Holden  
16 said that because of VISION 2008, the Sacramento RMIT  
17 position would probably become a Regional Manager position  
18 for all of Sacramento, and that most likely plaintiff would  
19 not have to move again.

20           62. Mr. Holden told plaintiff that he had only one  
21 other candidate that he might have to interview from the  
22 Seattle/Portland area because he had promised he would do so.

23           63. Mr. Holden asked plaintiff what she thought Mr.  
24 Martorello would think.

25           64. Plaintiff told Mr. Holden that during the  
26 interview for the Phoenix RMIT position the day before, Mr.  
27 Martorello had specifically brought up the Bay Area RMIT  
28 position and asked plaintiff to call and talk to Mr. Holden

1 about this specific RMIT position. Mr. Holden said he would  
2 talk to Mr. Martorello and get back to plaintiff.

3 65. On or about November 11, 2004, plaintiff called Mr.  
4 Holden to let him know that Casey Blim had told her that  
5 someone else was being hired for the RMIT position in  
6 Phoenix, Arizona. She also told Mr. Holden that her husband  
7 was willing to move to Sacramento. Mr. Holden told plaintiff  
8 that he would talk with Mr. Martorello and get back to her.

9 66. Plaintiff called Mr. Lang regarding Mr. Holden's  
10 offer and he agreed it would be a perfect fit for both  
11 plaintiff and Mr. Holden, and that they would work well  
12 together. Mr. Lang indicated to plaintiff that he was very  
13 excited for her.

14 67. Mr. Lang had been very supportive of plaintiff  
15 through the whole promotion process. He told plaintiff he  
16 would talk to Bill Holden and Charlie Martorello for her.  
17 That same evening plaintiff received a message from Mr.  
18 Holden stating that Stefan Lang and Charlie Martorello were  
19 meeting with him the following day, and he would let  
20 plaintiff know the outcome.

21 68. Plaintiff heard nothing from Mr. Lang, Mr. Holden  
22 or Mr. Martorello the following day.

23 69. On or about November 15, 2004, plaintiff saw Stefan  
24 Lang at the Oakland Hilti Center. Plaintiff asked him if he  
25 had heard anything about what was going on. Mr. Lang told  
26 plaintiff he had talked with Bill Holden and that Mr. Holden  
27 was very positive about plaintiff taking the position. Mr.  
28 Lang said he was going to call Mr. Martorello and he would

1 get back to plaintiff later that day.

2 70. Plaintiff heard nothing further. On or about  
3 November 17, 2004, plaintiff emailed Mr. Lang with just a  
4 question mark. Mr. Lang emailed her back asking her to call  
5 him that evening.

6 71. On or about the evening of November 17, 2004,  
7 plaintiff and her husband telephoned Mr. Lang. During this  
8 conversation, Mr. Lang told plaintiff that even though there  
9 was no one else interviewing for the RMIT position in  
10 Sacramento she could not have it. Mr. Lang told plaintiff  
11 there was no way of getting around Mr. Martorello. Mr. Lang  
12 told plaintiff that Mr. Martorello told him that there were  
13 five other candidates for the position that were more  
14 qualified than her. Mr. Lang told plaintiff that she should  
15 wait until January 2005, and talk to Vince Caggiano about his  
16 group.

17 72. It was during this conversation that Mr. Lang for  
18 the first time, and contrary to all of his previous  
19 statements to plaintiff of unqualified support for her  
20 promotion to Regional Manager in Training (RMIT) and Regional  
21 Manager, stated that just because plaintiff was an  
22 exceptional sales person, that did not make her Regional  
23 Manager material. Mr. Lang also told plaintiff that not  
24 everyone got what they wanted.

25 73. On or about November 17, 2004, plaintiff received  
26 an email from Bill Holden saying he was sorry that the RMIT  
27 didn't work out and that he thought plaintiff would have been  
28 a nice addition to his Bay Area team. He offered his help in



1 any way going forward.

2 74. In or about February 2005 plaintiff was informed  
3 that the Bay Area RMIT position was given to a 29 year old  
4 male named Ryan Hartpence, a territory account manager in the  
5 Los Angeles area. Plaintiff is informed and believes Mr.  
6 Harpence's father had been a Regional Manager in the company  
7 for over 25 years.

8 75. On or about November 18, 2004, plaintiff called  
9 defendant Hilti's legal department and spoke with a woman  
10 named Mary Hughes about the events of the last eight months  
11 or so. Ms. Hughes told plaintiff said she couldn't believe  
12 what an emotional roller coaster plaintiff had been on during  
13 that time. Ms. Hughes told plaintiff she was one of defendant  
14 Hilti's most valuable employees. Plaintiff told Ms. Hughes  
15 she had documentation of the events since March, including  
16 emails and correspondence. During this conversation  
17 plaintiff stated her concerns of age discrimination and there  
18 not being any women Regional Managers under Charlie  
19 Martorello or the other four Vice-Presidents in the  
20 Construction and Mechanical/Electrical sales groups. Ms.  
21 Hughes told plaintiff to mail the information to her, that  
22 she would review it, and she would do everything she could to  
23 help plaintiff. Ms. Hughes said she would call plaintiff  
24 after she reviewed it. On or about November 18, 2004,  
25 plaintiff emailed Mary Hughes a summary of what had  
26 transpired since March 2004.

27 76. On or about November 24, 2004, plaintiff received a  
28 phone call from Kelly Beaver, Legal Counsel for defendant

1 Hilti.

2 77. Mr. Beaver told plaintiff that he was calling her  
3 instead of Mary Hughes doing so. He told plaintiff that he  
4 had not done a lot regarding her complaints but had talked to  
5 Andre Sigenthaler, Marcus Oden and Charlie Martorello, who he  
6 believed were generally familiar with the process and her  
7 particular situation. Mr. Beaver told plaintiff that when  
8 being considered for a promotion, it is a senior management  
9 decision and not just that of her immediate supervisor, which  
10 in her case was Stefan Lang.

11 78. Mr. Beaver said that Hilti's consideration of her  
12 for promotion was based on the people she worked with and the  
13 people she had worked with in the past. Mr. Beaver told  
14 plaintiff that Mr. Martorello said she had done a great job  
15 in her current position. Mr. Beaver went on to say that even  
16 though plaintiff had done a great job, that didn't mean she  
17 was going to be automatically considered for another  
18 position.

19 79. Plaintiff pointed out that she had not asked to be  
20 promoted but had been approached by her managers.

21 80. Mr. Beaver repeated that plaintiff had been doing  
22 extremely well in the Senior Account Manager (SAM) position.  
23 He told plaintiff that no one was arguing with her  
24 performance in the sales positions she had been performing,  
25 but that the consideration was whether she had the attributes  
26 for a broader management type of position, as the discussion  
27 had come up. Mr. Beaver said that without getting into  
28 specifics, he just wanted to let her know how the process

1 worked. He said basically it was based on people who worked  
2 with her, including Marcus Oden. Plaintiff told Mr. Beaver  
3 that she had never worked directly with Marcus Oden in the  
4 Bay Area, because he was in the Construction Division.

5 81. Mr. Beaver ignored this point and said that he was  
6 not saying that anyone had anything bad to say about her, but  
7 that each person who may know her had their own perception of  
8 how she would work with other people and whether she had the  
9 experience, judgment, character and other attributes to be a  
10 manager. Mr. Beaver said that these attributes were different  
11 than the attributes for being in an individual sales  
12 position.

13 82. Plaintiff responded by saying she wouldn't have  
14 been successful in her SAM position if she did not have each  
15 of those attributes.

16 83. Mr. Beaver told plaintiff that everyone was  
17 delighted to have her back, but the question is whether  
18 people believe that right now she was ready to be some type  
19 of manager, whether it be a regional manager or something in  
20 corporate. He said it was his understanding that she wanted  
21 to go into a management position in sales. Plaintiff  
22 confirmed this and pointed out that one of the reasons she  
23 worked so hard in the SAM position was because she was told  
24 by Stan Gilson when she was rehired in November 2003 that if  
25 she was successful as a SAM, she could be a Regional Manager.

26 84. Plaintiff pointed out that she had spoken with  
27 Marcus Oden in May 2004, regarding Mr. Lang's request to  
28 promote her to Regional Manger and that she had asked Mr.

1 Oden what training she would need. She pointed out that Mr.  
2 Oden said nothing to her about not being qualified, but  
3 rather had told her there was one pre-training class and  
4 another one after she started the Regional Manager position.  
5 Plaintiff asked what had changed.

6 85. Mr. Beaver said the concern was whether plaintiff  
7 was ready to go into a broader management role. He told  
8 plaintiff there was no dissatisfaction with her performance,  
9 but the question was did the people involved see her being  
10 ready to be a Regional Manager.

11 86. Plaintiff asked what people. Mr. Beaver said  
12 Stephan Lang and especially Charlie Martorello. He also  
13 generally referred to others that she had worked with.  
14 Plaintiff responded by telling Mr. Beaver that Mr. Lang and  
15 Mr. Gilson had made the decision that she was ready to be  
16 promoted, and those were the two people that she had worked  
17 directly with.

18 87. Mr. Beaver repeated that no one was being critical  
19 of her performance. Plaintiff asked what they were critical  
20 of. Mr. Beaver said he had not asked that question. He said  
21 he was just trying to figure out where they were in the  
22 process and was trying to explain to her how the process  
23 worked. He said Marcus Oden's input was in knowing her from  
24 the past, but that he wasn't a key player.

25 88. Mr. Beaver said that one thing that had been  
26 mentioned was that a next step for her should be a specialist  
27 position, like a firestop specialist, a diamond specialist  
28 one where she would work with a broader group of people and

1 have a chance to work with different teams of people, that it  
2 was the logical step, not because of the sales experience but  
3 because it was a broader step for working with other groups  
4 of people. He told plaintiff that Mr. Martorello said this  
5 would give her the opportunity to demonstrate what she could  
6 do in a broader role.

7 89. Plaintiff told Mr. Beaver that she had already  
8 demonstrated this in her SAM position. She pointed out that  
9 if this was the process, then why after 7 months with the  
10 company, was Chris Tindiller, who was half her age and had no  
11 experience, promoted into the RMIT from a regular account  
12 manager position.

13 90. Mr. Beaver responded that he couldn't really  
14 comment on that. He repeated that he saw her issue as  
15 working with broader groups which is the next logical step  
16 for a specialist position.

17 91. Plaintiff told Mr. Beaver that Mr. Martorello had  
18 asked her to interview for two RMIT positions and that Bill  
19 Holden had asked her if she wanted the RMIT position in  
20 Sacramento. She asked Mr. Beaver why she was now being told  
21 that she didn't have the attributes for an RMIT after she was  
22 asked if she wanted the Sacramento RMIT position job. She  
23 told Mr. Beaver that her understanding was that part of the  
24 training for an RMIT was working with small groups of sales  
25 representatives to learn the skills to be a Regional Manager;  
26 and that now he was telling her that she had to be a  
27 specialist first, which was a lateral move for her.

28 92. Mr. Beaver told plaintiff the firestop position

1 would be an opportunity to open some doors for her with other  
2 people, and asked whether she would be interested in  
3 relocating for one of these firestop position roles.

4 93. Plaintiff asked Mr. Beaver if that was her only  
5 choice. Mr. Beaver asked plaintiff if she would consider the  
6 specialist position if it was her only opportunity to expand  
7 her experience and work with people in groups.

8 94. Plaintiff again told Mr. Beaver that she had worked  
9 with groups - in corporate and in the field. She asked Mr.  
10 Beaver what specifically he was talking about. She told Mr.  
11 Beaver she knew that Chris Tindiller definitely did not have  
12 that experience because he was fresh out of college and the  
13 account manager position was his first job.

14 95. In response Mr. Beaver said he would be happy to  
15 discuss any specific concerns she had, but he could not  
16 really comment because he didn't know plaintiff. He told  
17 plaintiff he knew that she had had great results since her  
18 rehire. He told plaintiff that he had been in a lot of  
19 meetings with Mr. Martorello in which diversity issues were  
20 discussed, that he believed that Mr. Martorello was just as  
21 committed to those issues as anybody else within the company,  
22 and was always looking to hire women.

23 96. Plaintiff told Mr. Beaver that Mr. Martorello had  
24 not promoted a woman to a Regional Manager position since in  
25 or about 1995; that the woman, Betsy Starr, was a friend of  
26 his wife; that they had a personal relationship; and that she  
27 was the only woman he even had looked at for a RM position.

28 97. Mr. Beaver acknowledged that Mr. Martorello did not

1 have any current female Regional Managers in his division,  
2 but said he did promote Betsy Starr. Plaintiff pointed out  
3 that Ms. Starr had been promoted in 1995 and asked what about  
4 since then.

5 98. Mr. Beaver responded that whatever the reason was  
6 for her promotion, Ms. Starr had been a Regional Manager. He  
7 said he thought there had been a couple of other women in  
8 specialist positions and that one of them was now a corporate  
9 manager. He said he thought there were other women in  
10 management in other divisions, that he didn't know who they  
11 were, but that it was a starting place.

12 99. Mr. Beaver told plaintiff that he thought she had a  
13 different "take" on it than he did. He told her that from  
14 what he had seen discrimination was not an issue with her not  
15 being promoted. Mr. Beaver told plaintiff that he thought  
16 that Mr. Martorello was not convinced that she was ready for  
17 a Regional Manager position. He told plaintiff that if she  
18 accepted a specialist role, and showed Mr. Martorello some  
19 things, that maybe she could change his mind.

20 100. Mr. Beaver told plaintiff that as her Vice-  
21 President, Mr. Martorello was one of the most significant  
22 players in her promotion. He said that other people like  
23 Marcus Oden might have had some input, but he didn't know any  
24 details.

25 101. Plaintiff asked Mr. Beaver again why she had to go  
26 through this "process" when Chris Tindiller did not have to  
27 go through this "process". Mr. Beaver replied by telling  
28 plaintiff that Mr. Tindiller was being groomed for management

1 in some special program. He told plaintiff that he would  
2 check on that for her.

3 102. Plaintiff responded by saying if Mr. Tindiller  
4 could be groomed for management, why couldn't she be groomed  
5 for management after 22 years of service.

6 103. Mr. Beaver ignored her question and instead  
7 suggested that plaintiff think about whether she was  
8 interested in a firestop position or another specialist  
9 position, and plan on meeting with other people like Vince  
10 Caggiano and see how that would go. Mr. Beaver told  
11 plaintiff that Mr. Caggiano was a very good support person  
12 for the Executive Management Group, that they could get Mr.  
13 Caggiano's input on particular issues, that his input could  
14 always be considered, and that these are the kind of things  
15 that people don't always agree on.

16 104. Mr. Beaver told plaintiff that he understood that  
17 Mr. Lang might have told her she was ready for a promotion,  
18 but to understand that just because her immediate supervisor  
19 thought she was promotable didn't mean that other people  
20 agreed with him, or that she didn't have to go through the  
21 interview process, or that the person she interviewed with  
22 had to make the right selection. He told plaintiff that  
23 other people had to agree and make the right assessment and  
24 some people just weren't there yet.

25 105. Mr. Beaver told plaintiff that was all he had to  
26 say. He told plaintiff that they would look into this a  
27 little bit more, but that based on the conversations he  
28 already had with Charlie Martorello, Andre Sigenthaler, and



1 Marcus Oden, he did not think the denial of promotion was  
2 related to her personally. Plaintiff then asked what the  
3 reason was.

4 106. Mr. Beaver said he did not think it could be  
5 pinpointed to anything specifically or a situation. He told  
6 plaintiff that it was not anything she had done wrong or  
7 specifically any one thing. He said it appeared that  
8 everybody thought since she had been rehired she had been  
9 very successful and had done a wonderful job. He said that  
10 her excellent sales qualities did not have the makings of a  
11 good manager. He said that some of the same qualities that  
12 made the plaintiff a success in selling, may not transfer to  
13 the managing profile that Hilti has. He told plaintiff that  
14 she was definitely quite talented and got things done really  
15 well on her own, but that she did not have "for a lack of a  
16 better word", maybe patience to work with other people. He  
17 said maybe she was a star performer who had difficulty  
18 working with others because she could not accept others who  
19 were not as good as her. Mr. Beaver said that Mr. Oden told  
20 him that plaintiff thought she was better than everyone else  
21 because she sold more than others.

22 107. Plaintiff said "Excuse me. What did you say?" She  
23 told Mr. Beaver that he could turn that around and say that  
24 salesmen didn't like her because she performed better than  
25 them. She told Mr. Beaver that the sales people who performed  
26 well liked her and that she had great relationships with  
27 them.

28 108. Mr. Beaver said that as far as giving her an idea

1 of what she needed to fix or was lacking, he could not do  
2 that. He told her he could not even pin point a specific  
3 instance. He told her to try to enjoy her vacation and that  
4 he would look into her complaint a little more. However, Mr.  
5 Beaver told her that he could say that Hilti's process was  
6 working the way it was designed to work. He said the process  
7 was to gather the input of various people so that there was  
8 not any one person who could say yes or no. He said the  
9 process took into account everyone's past experience of  
10 working with her and what their evaluation was of her.

11 109. Plaintiff pointed out that she had never received  
12 a bad evaluation from any of her immediate supervisors.

13 110. Mr. Beaver said that it was kind of a  
14 collaborative process. He recommended to her - not as legal  
15 advice or Human Resources advice - that if the issue Mr.  
16 Martorello had expressed was patience, that she try to show  
17 some patience, enjoy being back with Hilti, and pursue  
18 additional opportunities like a firestop position that might  
19 come up and so forth. He said she should be proactive with  
20 Mr. Martorello and if the issue was patience, ask him to tell  
21 her what she can do.

22 111. Plaintiff told Mr. Beaver that she had asked Mr.  
23 Martorello on at least two occasions to give her specifics  
24 and that he would not give her one example of what he was  
25 talking about or when she had shown a lack of patience.

26 112. Mr. Beaver did not respond to plaintiff's  
27 information. Instead, he told plaintiff that part of the  
28 issue was that she had only been back with Hilti for one

1 year.

2 113. Plaintiff told Mr. Beaver that she had 21 years of  
3 very successful sales and corporate experience before  
4 returning a year before. She asked Mr. Beaver how long Chris  
5 Tindiller had been with the company

6 114. Mr. Beaver ignored her question. Instead, he told  
7 plaintiff that he had tried to be as open with her as  
8 possible and that before they spoke any further, he needed to  
9 do some further research. Mr. Beaver told plaintiff he would  
10 get back to her after she returned from vacation.

11 115. Plaintiff never heard from Mr. Beaver or anyone  
12 else from Hilti's legal department again.

13 116. On or about November 23, 2004, plaintiff received  
14 an email from Mr. Martorello requesting a meeting on December  
15 9, 2004, with Mr. Lang and himself to discuss plaintiff's  
16 career "ambitions" and the results of the recent decisions on  
17 the Phoenix, Arizona and Sacramento, California RMIT  
18 positions. Plaintiff agreed to the meeting.

19 117. On or about December 9, 2004, plaintiff met with  
20 Mr. Martorello and Mr. Lang. During this meeting, Mr.  
21 Martorello told plaintiff he wanted her to interview for a  
22 Portland Firestop position. During this meeting he gave no  
23 indications as to what qualifications she was lacking to be a  
24 RMIT, or why after all that had transpired over an 8 month  
25 period, he would not promote her. He just stated that Mr.  
26 Lang had "jumped the gun". He did state that he never  
27 promoted anyone directly from a sales position into a  
28 Regional Manager's position. He said the person had to be a

1 Specialist first.

2       118. Mr. Martorello told plaintiff he thought she  
3 should be a Firestop Specialist so she could work directly  
4 with other sales people. He said he had a Firestop position  
5 in Portland/Seattle if she wanted to interview for it.  
6 Plaintiff told him she would think about it over Christmas  
7 vacation. She told Mr. Martorello that she was going to take  
8 two or three weeks off for Christmas, and that her husband  
9 was so disappointed in the way Hilti had treated her, they  
10 had some things regarding their futures to talk about.

11       119. Both of the RMIT positions plaintiff was denied  
12 were filled by younger males directly from sales positions.

13       120. In December 2004 plaintiff's year-end performance  
14 with defendant Hilti was outstanding. She was the number one  
15 ranked SAM in the company. Her performance review for the  
16 year 2004 gave her the highest rating, "Outstanding". The  
17 December 2004 Year to Date Ranking showed that plaintiff was  
18 the number one ranked Account Manager in the Western division  
19 with 188.7% of forecasted sales and the number four ranked  
20 Account Manager with 282.3% growth over prior year. Plaintiff  
21 is informed and believes that in December 2004 of the ninety-  
22 two (92) Regional Manager positions at Hilti only three (3)  
23 were held by females, all in the Industrial Division.

24       121. Plaintiff spoke with Stefan Lang on or about  
25 December 10, 2004. She asked Mr. Lang what he thought of what  
26 Mr. Martorello said in the meeting. Mr. Lang commented to  
27 plaintiff: "Don't you get it?" Mr. Lang told plaintiff it  
28 did not matter what she did or how she performed. Mr. Lang

1 told plaintiff that she would never be promoted to a Regional  
2 Manager position under Mr. Martorello. Mr. Lang told  
3 plaintiff that what had transpired was not about her or about  
4 her performance; it was all about Mr. Martorello.

5 122. During the holidays, plaintiff's husband and she  
6 agreed that it was time for him to apply for promotable  
7 positions within his company. Up to that time plaintiff's  
8 husband had held off on seeking a promotion of his own within  
9 his company, based on the representations made to plaintiff  
10 by Hilti's management that she would be promoted to Regional  
11 Manager. Plaintiff's husband applied for 20 new manager  
12 positions that had just been created throughout the U.S.

13 123. After being denied two promotions by Mr.  
14 Martorello, being told that Mr. Martorello would not promote  
15 her to an RMIT position, and having been told by Mr.  
16 Martorello that he wanted her to be a specialist (which was a  
17 lateral transfer) as her next step, it was clear to plaintiff  
18 that she would not receive a promotion working in the Western  
19 Division under Mr. Martorello.

20 124. In or about early January 2005 plaintiff met with  
21 Vince Caggiano. There were three female Regional Managers in  
22 his division. Mr. Caggiano and plaintiff talked about the  
23 events regarding her possible promotion. Mr. Caggiano  
24 acknowledged that Mr. Martorello had a history of not  
25 promoting women into the Regional Manager position, and  
26 commented that at that time, he (Mr. Caggiano) was the only  
27 VP who had any women Regional Managers. Mr. Caggiano again  
28 stated that plaintiff was more than qualified for the

1 position, and he would have no problems hiring her into a  
2 position as Regional Manager if he had a vacancy.

3 125. Plaintiff never received an invitation for an  
4 interview for the Portland/Seattle Firestop position during  
5 December and was never interviewed for that position.

6 126. On or about January 3, 2005, plaintiff received an  
7 e-mail from Tim Wenderland, the Director of Firestop,  
8 regarding interviewing for a firestop position in Denver.  
9 Plaintiff flew to Denver on or about January 5, 2005, and  
10 interviewed with Mr. Wenderland for approximately three hours  
11 at the Denver airport before she flew home.

12 127. At the start of the interview, Mr. Wenderland  
13 questioned why plaintiff was interviewing for the position.  
14 He told plaintiff he thought it was a waste of time for her  
15 and that she was overqualified for the position. Plaintiff  
16 told Mr. Wenderland what Mr. Martorello had said about  
17 working with other salespeople. Mr. Wenderland told plaintiff  
18 that she would learn more from an RMIT position about working  
19 with account managers than she would from a firestop  
20 position. He also told her the firestop position required  
21 traveling to five states, five days a week.

22 128. Mr. Wenderland told plaintiff to let him know by  
23 the end of the following week if she wanted the position.  
24 Plaintiff told Mr. Wenderland at that time that her husband  
25 had a call the night before about a job in Atlanta and she  
26 was not exactly sure where that was going. Mr. Wenderland  
27 told her to call him and let him know the outcome.

28 129. When plaintiff got home that night, her husband

1 told her they were going to Atlanta, Georgia that weekend, so  
2 he could interview on or about January 10, 2005, and they  
3 would have the weekend to look around Atlanta.

4 130. Before going to Atlanta, plaintiff spoke with  
5 Stefan Lang. Plaintiff told Mr. Lang she was very upset over  
6 the Denver interview, and maybe it was time to let her  
7 husband receive a promotion. She told Mr. Lang that she was  
8 going to Atlanta that weekend with her husband, and would  
9 call him after the interview.

10 131. Plaintiff then called Mr. Lang on or about January  
11 10, 2005, to tell him that her husband had been promoted to a  
12 position in Atlanta, Georgia and they would be moving there.  
13 This meant that plaintiff would then have to give up her  
14 position in California as Senior Account Manager.

15 132. On or about January 13, 2005 while house hunting  
16 in Atlanta, Mr. Lang arranged for plaintiff to meet with Clay  
17 Hammond, Hilti, Inc.'s District Manager in Atlanta, Georgia  
18 to discuss a position in the Atlanta area. Mr. Hammond told  
19 plaintiff that he had no open positions at that time but  
20 that she could transfer to Atlanta and that he would come up  
21 with a job for her.

22 133. When plaintiff arrived back in California from  
23 Atlanta on or about January 17, 2005, she had a meeting with  
24 Stefan Lang regarding her annual job performance review. In  
25 that review plaintiff received an outstanding job performance  
26 rating from Mr. Lang and Charlie Martorello. There was  
27 nothing in the review that stated plaintiff needed any  
28 additional training to be a RMIT or a Regional Manager, or

1 that she had any of the personal issues raised by Mr.  
2 Martorello and Mr. Beaver.

3 134. Plaintiff asked Mr. Lang what Chris Tindiller and  
4 Mr. Hardpence had that she did not have. Mr. Lang said "Oh  
5 Debbie, you are moving now and getting a new home, what does  
6 it matter?"

7 135. Before plaintiff moved to the Atlanta, Georgia  
8 area she saw Bill Holden. Plaintiff asked him what  
9 qualifications Ryan Hartpence had over her. Mr. Holden stated  
10 that he was again so sorry that the RMIT didn't work out and  
11 that didn't she realize that she needed to move on to another  
12 area and get away from Charlie Martorello.

13 136. Plaintiff is informed and believes that Hilti had a  
14 need for Senior Account Manager or an equivalent or  
15 substantially similar position in the Atlanta, Georgia area  
16 and could have allowed plaintiff to transfer to Atlanta in  
17 such a capacity. This would have enabled her to continue  
18 working in the same level or substantially the same level  
19 position she held in California, which she had been told by  
20 Mr. Lang was a stepping stone to a promotion to an RMIT or  
21 Regional Manager. However, Hilti, refused to transfer  
22 plaintiff laterally to a position in the Atlanta, Georgia  
23 area. The only position offered to plaintiff by Mr. Hammond  
24 was that of an Account Manager, which was a demotion and a  
25 significant cut in pay. However, the Account Manager  
26 position included extra job duties similar to an RMIT  
27 position, including coaching and teaching the Atlanta  
28 Mechanical/Electrical team of Account Managers on successful



1 selling and co-managing the team along with Pete Schnyder,  
2 the Regional Manager.

3 137. By this time plaintiff still had not been  
4 contacted by Hilti's legal department or anyone else  
5 regarding her complaint of gender and age discrimination.  
6 Plaintiff believed that her complaint was being ignored and  
7 that Hilti was not going to take any steps to resolve her  
8 complaint.

9 138. Plaintiff and her husband moved to the Atlanta,  
10 Georgia area on or about March 14, 2005. At that time she  
11 was on vacation. The next week or so, and while still on  
12 vacation, plaintiff met with Mr. Hammond. She asked Mr.  
13 Hammond how long she would have to work as an Account Manager  
14 before being promoted. Mr. Hammond stated it depended on how  
15 well she did. She pointed out to him that she had already  
16 reached the highest level of success as a Senior Account  
17 Manager and asked him what else she could do to be promoted.  
18 Mr. Hammond was very vague and essentially indicated that  
19 there was nothing that plaintiff could do to work toward  
20 being promoted. Plaintiff also was going to be required to  
21 drive two hours each way from her home to reach her customers  
22 under her new job duties as an account manager. It was clear  
23 to plaintiff that she had little or no possibility of  
24 promotion any longer with Hilti. Plaintiff believed that she  
25 was being pushed backward 12 years in her career path by  
26 Hilti.

27 139. Plaintiff started working in her new position on  
28 or about April 17, 2005. After working three days in her new

1 position in Georgia, she felt compelled to quit, based on the  
2 intolerable working conditions she was facing related to the  
3 pattern of discrimination she had been experiencing from  
4 Hilti, which was based on her gender (female) and her age (49  
5 at the time).

6 140. Plaintiff faced an ongoing pattern of  
7 discrimination based on her gender and age in terms of  
8 advancing her career with Hilti, including, without  
9 limitation, discrimination in promotions; discrimination in  
10 terms of being placed in jobs with better opportunities in  
11 terms of monetary compensation, duties, training, and/or  
12 potential advancement; discrimination in training;  
13 discrimination in terms of receiving equal opportunities to  
14 earn higher pay; discrimination in placing her in jobs;  
15 discrimination in placing alleged requirements, obstacles,  
16 stepping stones, and qualifications in her way of advancing  
17 while not placing those requirements, obstacles, stepping  
18 stones, and qualifications in the way of other applicants not  
19 in her protected category; discrimination in terms of  
20 correlating duties assigned her with status, pay, and title  
21 of job position; harassment and hostile work environment  
22 which acted to interfere with advancing her career; gender-  
23 based and/or age-based retaliation against her for opposing  
24 discrimination regarding her career advancement and related  
25 matters thereto (e.g., her opposing gender discrimination  
26 acted in turn to reinforce and aggravate discriminatory  
27 feelings based on a view she was an allegedly assertive, non-  
28 team oriented, impatient woman, which in turn influenced

1 employment decisions made toward her adversely affecting her  
2 career advancement, when the same characteristics in a male  
3 would not have been viewed that way; and other discrimination  
4 in employment opportunities.

5 FIRST CAUSE OF ACTION

6 (VIOLATION OF TITLE VII--SEX DISCRIMINATION AND RETALIATION,  
7 BROUGHT AGAINST DEFENDANT HILTI INC.)

8 141. Plaintiff refers to the allegations of paragraphs  
9 1-140 of this complaint, and incorporates the same herein by  
10 this reference as though set forth in full.

11 142. Plaintiff has exhausted in a timely fashion all  
12 administrative requirements prior to filing an action for  
13 violation of Title VII, and is bringing this action in a  
14 timely fashion, within 90 days after receiving a right to sue  
15 notice by the U.S. Equal Employment Opportunity Commission,  
16 which was dated March 9, 2007

17 143. Defendant Hilti, Inc. violated 42 U.S.C. Section  
18 2000e-2, in that it discriminated against plaintiff on the  
19 basis of her sex (female), in terms of advancing her career  
20 with Hilti, including, without limitation, in discriminating  
21 against her in terms of promotions; in discriminating against  
22 her in terms of being placed in jobs with better  
23 opportunities in terms of monetary compensation, duties,  
24 training, and/or potential advancement; in terms of  
25 discriminating against her in terms of training; in terms of  
26 discriminating against her in terms of receiving equal  
27 opportunities to earn higher pay; in terms of discriminating  
28 against her in terms of placing her in jobs; in terms of

1 discriminating against her in terms of placing alleged  
2 requirements, obstacles, stepping stones, and qualifications  
3 in her way of advancing while not placing those requirements,  
4 obstacles, stepping stones, and qualifications in the way of  
5 other applicants not in her protected category; in terms of  
6 discriminating against her in terms of correlating duties  
7 assigned her with status, pay, and title of job position; in  
8 terms of harassment and hostile work environment which acted  
9 to interfere with her advancing her career; in terms of  
10 gender-based retaliation against her for opposing  
11 discrimination regarding her career advancement and related  
12 matters thereto, and which in turn was aimed at reinforcing  
13 and also acted to reinforce sex discrimination (e.g., her  
14 opposing gender discrimination acted in turn to reinforce and  
15 aggravate discriminatory feelings based on a view she was an  
16 allegedly assertive, non-team oriented, impatient woman,  
17 which in turn influenced employment decisions made toward her  
18 which adversely affected advancement of her career, when the  
19 same characteristics in a male would not have been viewed  
20 that way; and in terms of other discrimination in employment  
21 opportunities. Based on and related to the aforesaid  
22 discrimination against plaintiff based on her sex (female),  
23 plaintiff ultimately was forced to quit her employment with  
24 defendant and was constructively discharged by defendant from  
25 her employment.

26       144. Defendant Hilti, Inc. violated 42 U.S.C. Section  
27 2000e-3, in that it discriminated against plaintiff,  
28 including, without limitation, in terms of plaintiff

1 advancing her career, based on and related to her opposing  
2 discrimination in violation of Title VII. Related thereto,  
3 said discrimination contributed to the intolerable conditions  
4 plaintiff already faced from the other unlawful conduct she  
5 was being subjected to, as set forth elsewhere herein, and  
6 related thereto plaintiff was ultimately forced to quit her  
7 employment with defendant and was constructively discharged  
8 by defendant from her employment.

9 145. As a proximate result of said violations of Title  
10 VII by defendant, plaintiff has sustained, and continues to  
11 sustain, economic damages plus prejudgment interest thereon in  
12 an amount to be shown according to proof.

13 146. As a further proximate result of said violations of  
14 Title VII by defendant, plaintiff has suffered, and continues  
15 to suffer, emotional distress, mental anguish, shame,  
16 embarrassment, humiliation, pain and suffering, loss of  
17 enjoyment of life, and injury to reputation, in an amount in  
18 excess of the amount required to be in controversy to invoke  
19 the original jurisdiction of this Court, to be shown according  
20 to proof.

21 147. As a further proximate result of defendant's  
22 unlawful conduct, plaintiff has incurred health-related costs  
23 and expenses in an amount to be shown according to proof.

24 148. The aforesaid conduct of defendant was willful,  
25 malicious, and oppressive, and plaintiff is entitled to an  
26 award of punitive damages in an amount to be shown according  
27 to proof.

28 149. Plaintiff is entitled to appropriate equitable

1 relief including, without limitation, reinstatement or front  
2 pay in lieu thereof, appropriate seniority, promotions and pay  
3 increases, appropriate expungement of her employment records,  
4 and removal and correction of any adverse effects of  
5 defendant's discriminatory conduct.

6 150. Plaintiff has had to hire attorneys to prosecute  
7 the matter herein, and is entitled to an award of reasonable  
8 attorneys' fees and costs, according to proof.

9 WHEREFORE, plaintiff prays judgment against defendant as  
10 set forth below.

11 SECOND CAUSE OF ACTION

12 (VIOLATION OF ADEA, AGAINST DEFENDANT HILTI INC.)

13 151. Plaintiff refers to the allegations of paragraphs  
14 1-140 of this complaint, and incorporates the same herein by  
15 this reference as though set forth in full.

16 152. Plaintiff has exhausted in a timely fashion all  
17 administrative requirements prior to filing an action under 29  
18 U.S.C. Section 626, the Age Discrimination in Employment Act,  
19 and has waited more than 60 days from the filing of  
20 administrative charges with the Equal Employment Opportunity  
21 Commission to file the action herein.

22 153. Defendant Hilti, Inc. knowingly and willfully  
23 violated 29 U.S.C. Section 623(a) in that it discriminated  
24 against plaintiff on the basis of her age, including, without  
25 limitation, in that it discriminated against her based on age  
26 in terms of advancing her career with Hilti, including,  
27 without limitation, discrimination in promotions;  
28 discrimination in terms of being placed in jobs with better

1 opportunities in terms of monetary compensation, duties,  
2 training, and/or potential advancement; discrimination in  
3 training; discrimination in terms of receiving equal  
4 opportunities to earn higher pay; discrimination in placing  
5 her in jobs; discrimination in placing alleged requirements,  
6 obstacles, stepping stones, and qualifications in her way of  
7 advancing while not placing those requirements, obstacles,  
8 stepping stones, and qualifications in the way of other  
9 applicants not in her protected category; discrimination in  
10 terms of correlating duties assigned her with status, pay,  
11 and title of job position; harassment and hostile work  
12 environment which acted to interfere with advancing her  
13 career; and other discrimination in employment opportunities.  
14 Based on and related to the aforesaid discrimination based on  
15 her age, plaintiff ultimately was forced to quit her position  
16 and was constructively discharged related thereto.

17 154. As a proximate result of defendant's violation of  
18 29 U.S.C. Section 623(a), plaintiff has suffered, and  
19 continues to suffer, economic loss plus prejudgment interest  
20 thereon in an amount to be shown according to proof.

21 155. Defendant's violation of 29 U.S.C. Section 623(a)  
22 was knowing, reckless, and willful, and plaintiff is entitled  
23 to an additional amount as and for liquidated damages equal to  
24 the economic damages awarded in this matter.

25 156. As a further proximate result of defendant's  
26 violation of 29 U.S.C. Section 623(a), plaintiff is entitled  
27 to appropriate equitable relief including, without limitation,  
28 reinstatement or front pay in lieu thereof, appropriate

1 seniority, promotions and pay increases, appropriate  
2 expungement of her employment records, and removal and  
3 correction of any adverse effects of defendant's  
4 discriminatory conduct.

5 157. Plaintiff has been compelled to engage the services  
6 of attorneys in order to prosecute the action herein, and is  
7 accordingly entitled to an award of reasonable attorneys' fees  
8 and costs.

9 WHEREFORE, plaintiff prays judgment against defendant as  
10 set forth below.

11 THIRD CAUSE OF ACTION

12 (VIOLATION OF CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT'S SEX  
13 DISCRIMINATION, RETALIATION, AND AGE DISCRIMINATION  
14 PROVISIONS, BROUGHT AGAINST DEFENDANT HILTI, INC.)

15 158. Plaintiff refers to the allegations of paragraphs  
16 1-140 of this complaint, and incorporates the same herein by  
17 this reference as though set forth in full.

18 159. Plaintiff has exhausted all administrative remedies  
19 required of her prior to bringing this cause of action for  
20 violation of the California Fair Employment and Housing Act,  
21 and is bringing this action in a timely fashion.

22 160. Defendant Hilti, Inc. discriminated against  
23 plaintiff based on her sex (female) in violation of the  
24 California Fair Employment and Housing Act, California  
25 Government Code Sections 12940 et seq., including, without  
26 limitation, in that it discriminated against plaintiff based  
27 on her sex (female) in terms of advancing her career with  
28 Hilti, including, without limitation, in discriminating



1 against her in terms of promotions; in discriminating against  
2 her in terms of being placed in jobs with better  
3 opportunities in terms of monetary compensation, duties,  
4 training, and/or potential advancement; in terms of  
5 discriminating against her in terms of training; in terms of  
6 discriminating against her in terms of receiving equal  
7 opportunities to earn higher pay; in terms of discriminating  
8 against her in terms of placing her in jobs; in terms of  
9 discriminating against her in terms of placing alleged  
10 requirements, obstacles, stepping stones, and qualifications  
11 in her way of advancing while not placing those requirements,  
12 obstacles, stepping stones, and qualifications in the way of  
13 other applicants not in her protected category; in terms of  
14 discriminating against her in terms of correlating duties  
15 assigned her with status, pay, and title of job position; in  
16 terms of harassment and hostile work environment which acted  
17 to interfere with her advancing her career; in terms of  
18 gender-based retaliation against her for opposing  
19 discrimination regarding her career advancement and related  
20 matters thereto, and which in turn was aimed at reinforcing  
21 and also acted to reinforce sex discrimination (e.g., her  
22 opposing gender discrimination acted in turn to reinforce and  
23 aggravate discriminatory feelings based on a view she was an  
24 allegedly assertive, non-team oriented, impatient woman,  
25 which in turn influenced employment decisions made toward her  
26 which adversely affected advancement of her career, when the  
27 same characteristics in a male would not have been viewed  
28 that way; and in terms of other discrimination in employment

1 opportunities. Based on and related to the aforesaid  
2 discrimination against plaintiff based on her sex (female),  
3 plaintiff ultimately was forced to quit her employment with  
4 defendant and was constructively discharged by defendant from  
5 her employment.

6 161. Defendant Hilti, Inc. discriminated against  
7 plaintiff based on her age in violation of the California Fair  
8 Employment and Housing Act, California Government Code  
9 Sections 12940 et seq., including, without limitation, in that  
10 it discriminated against her based on her age in terms of  
11 advancing her career with Hilti, including, without  
12 limitation, discrimination in promotions; discrimination in  
13 terms of being placed in jobs with better opportunities in  
14 terms of monetary compensation, duties, training, and/or  
15 potential advancement; discrimination in training;  
16 discrimination in terms of receiving equal opportunities to  
17 earn higher pay; discrimination in placing her in jobs;  
18 discrimination in placing alleged requirements, obstacles,  
19 stepping stones, and qualifications in her way of advancing  
20 while not placing those requirements, obstacles, stepping  
21 stones, and qualifications in the way of other applicants not  
22 in her protected category; discrimination in terms of  
23 correlating duties assigned her with status, pay, and title  
24 of job position; harassment and hostile work environment  
25 which acted to interfere with advancing her career; and other  
26 discrimination in employment opportunities. Based on and  
27 related to the aforesaid discrimination against plaintiff  
28 based on her age, plaintiff ultimately was forced to quit her

1 position and was constructively discharged related thereto.

2       162. Defendant Hilti, Inc. violated the California Fair  
3 Employment and Housing Act, including, without limitation,  
4 California Government Code Section 12940(h), in that it  
5 discriminated against plaintiff, including, without  
6 limitation, in terms of plaintiff advancing her career, based  
7 on and related to her opposing practices forbidden by the  
8 California Fair Employment and Housing Act. Related thereto,  
9 said discrimination contributed to the intolerable conditions  
10 plaintiff faced from sex and age discrimination, and related  
11 thereto plaintiff was ultimately forced to quit her  
12 employment with defendant and was constructively discharged  
13 by defendant from her employment.

14       163. As a proximate result of said unlawful conduct by  
15 defendant, plaintiff has sustained, and continues to sustain,  
16 economic damages plus prejudgment interest thereon in an  
17 amount to be shown according to proof.

18       164. As a further proximate result of said wrongful  
19 conduct by defendant, plaintiff has suffered, and continues to  
20 suffer, emotional distress, mental anguish, shame,  
21 embarrassment, humiliation, pain and suffering, loss of  
22 enjoyment of life, and injury to reputation, in an amount in  
23 excess of the amount required to be in controversy to invoke  
24 the original jurisdiction of this Court, to be shown according  
25 to proof.

26       165. As a further proximate result of defendant's  
27 unlawful conduct, plaintiff has incurred health-related costs  
28 and expenses in an amount to be shown according to proof.

1        166. The aforesaid conduct of defendant was willful,  
2 malicious, and oppressive, and plaintiff is entitled to an  
3 award of punitive damages in an amount to be shown according  
4 to proof.

5        167. Plaintiff is entitled to appropriate equitable  
6 relief including, without limitation, reinstatement or front  
7 pay in lieu thereof, appropriate seniority, promotions and pay  
8 increases, appropriate expungement of her employment records,  
9 and removal and correction of any adverse effects of  
10 defendant's discriminatory conduct.

11        168. Plaintiff has had to hire attorneys to prosecute  
12 the matter herein, and is entitled to an award of reasonable  
13 attorneys' fees and costs, according to proof.

14        WHEREFORE, plaintiff prays judgment against defendant as  
15 follows:

16        1. On the First Cause of Action, for general damages and  
17 special damages according to proof; for punitive and exemplary  
18 damages, for appropriate equitable relief under Title VII  
19 including, without limitation, reinstatement or front pay in  
20 lieu thereof, appropriate seniority, promotions and pay  
21 increases, appropriate expungement of her employment records,  
22 and removal and correction of any adverse effects of  
23 defendant's discriminatory conduct; and for an award of  
24 reasonable attorneys' fees, according to proof.

25        2. On the Second Cause of Action, for economic loss plus  
26 prejudgment interest, according to proof, for an additional  
27 liquidated amount of damages equal to economic loss (in  
28 addition to the award for economic loss), and for appropriate

1 equitable relief under the ADEA, including, without  
2 limitation, reinstatement or front pay in lieu thereof,  
3 appropriate seniority, promotions and pay increases,  
4 appropriate expungement of her employment records, and removal  
5 and correction of any adverse effects of defendant's  
6 discriminatory conduct, and for an award of reasonable  
7 attorneys' fees, according to proof.

8       3. On the Third Cause of Action, for general damages and  
9 special damages according to proof; for punitive and exemplary  
10 damages, for appropriate equitable relief under the California  
11 Fair Employment and Housing Act including, without limitation,  
12 reinstatement or front pay in lieu thereof, appropriate  
13 seniority, promotions and pay increases, appropriate  
14 expungement of her employment records, and removal and  
15 correction of any adverse effects of defendant's  
16 discriminatory conduct; and for an award of reasonable  
17 attorneys' fees, according to proof.

18       4. For an award of reasonable attorneys' fees;

19       5. For costs of suit; and

20       6. For such other and further relief as this Court  
21 deems just and proper.

22       DATED: June 7, 2007.

LOUIS A. HIGHMAN, ESQ.  
BRUCE J. HIGHMAN, ESQ.  
HIGHMAN, HIGHMAN & BALL

24

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By \_\_\_\_\_  
Attorneys for Plaintiff  
DEBRA RODRIGUEZ

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27

28

DEMAND FOR JURY TRIAL

Plaintiff Debra Rodriguez, by and through her attorneys,  
hereby demands a jury trial in the above-entitled action.

DATED: June 7, 2007.

LOUIS A. HIGHMAN, ESQ.  
BRUCE J. HIGHMAN, ESQ.  
HIGHMAN, HIGHMAN & BALL

By \_\_\_\_\_  
Attorneys for Plaintiff  
DEBRA RODRIGUEZ